



IN A FLASH

Quick Read Memos for Human Resource Professionals



December 17, 2014

Federally Regulated Employees Now Have the Right to Secret Ballot Representation Votes

On December 16, 2014, the *Employees' Voting Rights Act* (the "Act"), also known as Bill C-525, received Royal Assent, and will come into force on June 16, 2015. This legislation will amend the *Canada Labour Code*, the *Parliamentary Employment and Staff Relations Act* ("PESRA"), and the *Public Service Labour Relations Act* ("PSLRA").

The Act fundamentally changes the union certification and decertification process for federally regulated employees. Specifically, automatic "card check" certification and decertification has been eliminated and replaced with secret ballot representation votes. In other words, under the Act, the Board will only certify a trade union after a majority of employees (who cast a ballot) vote to have a union represent them as their bargaining agent.

In determining whether to order a vote the Board must be satisfied that:

- An application for certification has been filed;
- The bargaining unit constitutes an appropriate unit for collective bargaining;
- On the basis of membership evidence, as of the date of filing, at least 40% of the employees in the unit wish to have the trade union represent them; and
- Under the *PESRA*, and the *PSLRA* the Board also must be satisfied that the persons filing the application are duly authorized to make the application.

A new process for decertification has also been implemented under the Act. The Board will grant an order terminating the rights of a bargaining unit where:

- On the basis of written evidence, as of the date of filing, at least 40% of the employees in the bargaining unit no longer wish to have the bargaining agent represent them; and
- A majority of the employees in the bargaining unit who cast a ballot in a secret vote no longer wish to have the bargaining agent represent them.

It is important to note that the Senate passed Bill C-525 with an observation that there were drafting errors with the Bill that it urged be fixed before the legislation comes into force. These

errors are technical and exist in the amendments to the *PSLRA*. The Chair of the Public Service Labour Relations and Employment Board has stated these errors impact the Board's power to regulate the evidence that is filed in a certification application. We will update you if these amendments have any impact on the operation of the Act or your business.

If you have any questions about this topic or any other questions relating to workplace law, please do not hesitate to contact a [Mathews Dinsdale lawyer](#).

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